UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,317	06/01/2001	Norman Feuer	042965/0104	4550

7590   02/18/2005

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EXAMINER
MIRZA, ADNAN M

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 June 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-55_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-55_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _01 June 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebiswasa

(U.S. 6,611,957) and further in view of Allibhoy et al (U.S. 2004/0172343).

As per claims Ebisawa disclosed 1,18 a network broadcasting system with provision for

delivering broadcasts and also advertisements or other messages to individual users comprising:

a tuner software system designed to be installed within the computers of users who wish to

receive broadcasts over the network and including a broadcast reception component that can

receive a broadcast from the network and present it to the user (col. 3, lines 21-29); a

broadcasting system that broadcasts over the network to computers containing the tuner software

system which have been enabled by their users to receive a broadcast; a network signaling

mechanism that signals over the network to computers containing the tuner software system and

receiving a broadcast informing such computers of when advertisements or other information

will appear within a broadcasts (col. 3, lines 5-15);

However Ebiswasa did not disclose a message presentation system associated with the tuner

software system that responds to the signals by obtaining and presenting to the user an

advertisement or other message simultaneously with, or as a replacement for, a portion of an

incoming broadcast.

In the same field of endeavor Allibhnoy disclosed Content providers or enhanced content

programming that may be of interest to the user. The profile can also be used by the controller to

alter programming so as to target the specific user, for example by altering a Content Provider's

spokesperson depending upon the user's profile. The profile can also be used for cross-selling

purposes and to target advertising, such as that which may be included in the shopping Cart

screens, to a specific user (Page. 2, Paragraph. 0016).

It would have been obvious to one having ordinary skill in the art at the time of the invention

was made to have incorporated content providers or enhanced content programming that may be

of interest to the user. The profile can also be used by the controller to alter programming so as

to target the specific user, for example by altering a Content Provider's spokesperson depending

upon the user's profile. The profile can also be used for cross-selling purposes and to target

advertising, such as that which may be included in the shopping Cart screens, to a specific user

as taught by Allibhoy in the method of Ebiswasa to have a method or a system that allows

interactions occurring between a network user and a third party to be monitored (Page. 1,

Paragraph 0006).

3.   As per claims Ebiswasa-Allibhoy disclosed 2,19 which the message presentation system

includes a multimedia advertisement or other message server containing advertisements or other

messages; an advertisement or message request component of said tuner software system that requests an advertisement or other message from said multimedia advertisement or other message server; and the multimedia advertisement or other message server, in response to such a request, returns the requested advertisement or other message (Ebiswasa, col. 2, lines 59-67).

4.   As per claims Ebiswasa-Allibhoy disclosed 3,20 at least some of the advertisements or other messages contained within the multimedia advertisement or other message server are associated with demographic information; the multimedia advertisement or other message server also has access to demographic information of users and can associate that information with advertisement or other message requests received from the tuner software system of such users (Allibhoy, Page. 2, Paragraph. 0016); and when the multimedia advertisement or other message server receives a request for an advertisement or message which request can be associated with demographic information associated with a user and which request is for one of a set of advertisements or messages also associated with demographic information, the multimedia advertisement or other message server compares the two sets of demographic information and then returns to the requesting tuner software system those advertisements or other messages associated with demographic information most closely matched to the demographic information associated with the user (Allihboy, Page. 10, Paragraph. 0124-0125).

5.   As per claim 4 Ebiswasa-Allibhoy disclosed wherein the demographic information comprises the user's gender, age, and geographic location (Allihboy, Page. 5, Paragraph. 0073).

6.   As per claims 5,22 Ebiswasa-Allibhoy disclosed wherein the geographic location for the

user is specified as a zip code (Allihboy, Page. 1, Paragraph. 0010).

7.   As per claims 6,23 Ebiswasa-Allibhoy disclosed wherein the multimedia advertisement

or other message server is able to transform zip code information into region of the country

information (Allihboy, Page. 2, Paragraph. 0016).

8.   As per claims 7,24 Ebiswasa-Allibhoy disclosed wherein the broadcasting system

receives commands from a producer system to have the tuner software systems present messages

to the users, and wherein at least some of these commands cause the network signaling

mechanism to signal the tuner software systems accordingly (Ebiswasa, col. 9, lines 42-59).

9.   As per claims 8,25 Ebiswasa-Allibhoy disclosed wherein the producer system is

connected by the network to the network signaling mechanism which is a stream encoder and

wrapper which receives both the broadcast and also the producer commands and integrates them

into a composite signal that is broadcast over the network to the user's computers (Ebiswasa, col.

9, lines 42-59).

10.   As per claims 9,26 Ebiswasa-Allibhoy disclosed wherein the broadcasting system

captures from the broadcast commands to have the tuner software systems present

advertisements to the users, and wherein at least some of these commands cause the network

signaling mechanism to signal the tuner software systems accordingly (Allihboy, Page. 2,

Paragraph. 0016).

11.   As per claims 10,27 Ebiswasa-Allibhoy disclosed wherein at least some of the commands

captured from the broadcast are fed to the network signaling mechanism which is a stream

encoder and wrapper which receives these commands and also the broadcast and integrates them

into a composite signal that is broadcast over the network to the users' computers (Ebiswasa, col.

9, lines 42-52).

12.   As per claims 11,38,43,53 Ebiswasa-Allibhoy disclosed which further includes an insert

and coordinating server into which said commands captured from the broadcast are fed and

which also receives log files from a traffic system defining which advertisements are to be

presented in what sequence during the broadcast (Allihboy, Page. 2, Paragraph. 0016), and the

insert and coordinating server adds to said commands captured from the broadcast specific

advertisement identification information, thereby forming advertisement identifying commands

which are then fed to the network signaling mechanism for transmission to the users' computers

to cause the advertisements to be presented to the users (Ebiswasa, col. 3, lines 53-67).

13.   As per claims 12,29 Ebiswasa-Allibhoy disclosed wherein the insert and coordinating

server generates prequeue commands ahead of the time when an advertisement is to be presented

to the user, the prequeue commands including the advertisement identification information; and

the insert and coordinating server sends the prequeue commands through the network signaling

system to the tuner software systems to cause them to download advertisements ahead of when

they are to be broadcast, and later generates fire commands which cause the tuner software

systems to present the advertisements to the users at the proper times (Allihboy, Page. 12,

Paragraph 0150).

14.   As per claims 13, 30 Ebiswasa-Allibhoy disclosed wherein the broadcasting system

receives commands from a producer system to have the tuner software systems present messages

to the users and captures commands from the broadcast to have the tuner software systems

present advertisements to the users, and wherein at least some of these commands cause the

network signaling mechanism to signal the tuner software systems accordingly (Allihboy, Page.

12, Paragraph. 0149).

15.   As per claims 14,31 Ebiswasa-Allibhoy disclosed wherein at least some of the commands

received from the producer system and captured from the broadcast are fed into the network

signaling mechanism which is a stream encoder and wrapper along with the broadcast, and the

stream encoder and wrapper integrates them into a composite signal that is broadcast over the

internet to the users' computers (Allihboy, col. 9, lines 43-60).

16.   As per claims 15,32 Ebiswasa-Allibhoy disclosed which further includes an insert and

coordinating server into which said commands captured from the broadcast are fed and which

also receives log files from a traffic system defining which advertisements are to be presented in

what sequence during the broadcast, and the insert and coordinating server adds to said

commands captured from the broadcast specific advertisement identification information,

thereby forming advertisement identifying commands which are then fed to the network

signaling mechanism for transmission to the users' computers to cause the advertisements to be

presented to the users (Allihboy, Page. 12, Paragraph 0150).

17.   As per claims 16,33 Ebiswasa-Allibhoy disclosed wherein the insert and coordinating

server generates prequeue commands ahead of the time when an advertisement is to be presented

to the user, the prequeue commands including the advertisement identification information

(Allihboy, Page. 12, Paragraph 0150); and the insert and coordinating server sends the prequeue

commands through the network signaling mechanism to the tuner software systems to cause

them to download advertisements ahead of when they are to be broadcast, and later generates fire

commands which cause the tuner software systems to present the advertisements to the users

(Allihboy, Page. 12, Paragraph. 0149).

18.   As per claims 17,34 Ebiswasa-Allibhoy disclosed wherein the insert and coordinating

server also accepts producer commands from the network and forwards them to the network

signaling mechanism (Ebiswasa, col. 15, lines 7-15).

19.   As per claims 36,41 Ebiswasa-Allibhoy disclosed wherein the tuner software system

includes a provision for displaying and thereby presenting a score or other number relevant to a

broadcast to a user, and the producer system includes a score or other number entry system that

permits a score or other number to be entered into the producer system, transferred across the

network to the insertion system, and transferred from there to the tuner software systems

(Ebiswasa, col. 3, lines 52-66).

20.   As per claims 37,42 Ebiswasa-Allibhoy disclosed wherein the tuner software system

includes a provision for displaying and thereby presenting a scrolled text message to a user, and

the producer system includes a keyboard or touch screen or speech recognition system that

enables the producer to enter, review, and then transfer across the network a text message which

is transferred across the network to the insertion system, and transferred from there to the tuner

software system, where the message is presented scrollably to a user (Allibhoy, Page. 4,

Paragraph. 0067).

21.   As per claims 39,44,54 Ebiswasa-Allibhoy disclosed wherein the producer system

includes advertisement presentation controls which, when actuated by the producer, can

command the display of advertising messages and which can prevent or postpone the display of

advertising messages by the tuner software systems, these commands being conveyed over the

network to the insertion system and from there to the tuner software systems (Allihboy, Page. 12,

Paragraph. 0149).

22.   As per claim 40 Ebiswasa-Allibhoy disclosed wherein the producer's computer is a hand-

held computer wirelessly connected into the network (Allihboy, Page. 3, Paragraph. 0053).

23.   As per claim 45 Ebiswasa-Allibhoy disclosed used for broadcasting live or prerecorded

sports events under the control of a producer, wherein the producer system includes controls

which, when actuated by the producer, can command the display of scores, multimedia

messages, and text messages and can also cause the presentation of advertisements and delay the

presentation of advertisements, said commands being conveyed over the network to the insertion

system and from there to the tuner software systems; and wherein the tuner software system

includes provision for displaying to the user on a computer screen scores, multimedia messages,

and text messages, as well as advertisements to the users (Allibhoy, Page. 4, Paragraph. 0067).

24.   As per claim 46 Ebiswasa-Allibhoy disclosed wherein the tuner software system has two

modes of display to the user, one mode filling a large portion of the user's screen, and a second

mode occupying only a small portion of the user's screen, and where either screen display

includes provision for displaying scores and text messages, and where advertisements and

multimedia messages are presented in pop-up windows in conjunction with the second mode of

display (Ebiswasa, col. 4, lines 5-14).

25.   As per claims 47,55 Ebiswasa-Allibhoy disclosed a network radio broadcasting system

with provision for delivering broadcasts and also advertisements or other messages to individual

users comprising: a tuner software system designed to be installed within the computers of users

who wish to receive broadcasts over the network and including a broadcast reception component

that can receive a broadcast from the network and present it to the user and also an advertisement

or other message insertion component that can download a multimedia advertisement or other

message from a server and present it to the user simultaneously with or as a replacement for an

incoming radio broadcast (Ebiswasa, col. 3, lines 41-67); a broadcasting system that broadcasts

over the network to computers containing the tuner software system which have been enabled by

their users to receive a broadcast; an advertisement or other message insertion system connecting

to said broadcasting system that can replace portions of the broadcast with advertisements or

other messages; a network signaling mechanism that signals over the network to computers

containing the tuner software system and receiving a broadcast informing such computers in

advance of when multimedia advertisements or other information is to be presented to the user

(Allihboy, Page. 12, Paragraph 0150), and that also signals when those advertisements or other

information are to be presented; a mechanism within said tuner software system that can respond

to said in advance signaling by downloading in advance of presentation multimedia

advertisements or other messages at a controlled rate of downloading which does not interfere

with reception of the broadcast and that can also respond to said presentation signaling by

presenting the advertisements or other information at the proper time (Ebiswasa, col. 28, lines

22-41).

26.   As per claims 48,51 Ebiswasa-Allibhoy disclosed wherein, as an advertisement or other

message is downloaded, the system measures the bandwidth occupied by the download process,

compares that to the network sustainable bandwidth and the bandwidth required by the

broadcast, and then throttles back the advertisement or other message download rate as needed to

insure that the message downloading process does not adversely affect the broadcast process

(Allibhoy, Page. 9, paragraph. 0116).

27.   As per claims 49,52 Ebiswasa-Allibhoy disclosed wherein incoming multimedia data is received from a TCP/IP socket, and wherein the throttling back of the incoming data is accomplished by delaying the acceptance of data from the TCP/IP socket (Allibhoy, Page. 3, paragraph. 0061).

28.   As per claim 50 Ebiswasa-Allibhoy disclosed wherein the tuner software system includes provision for managing multiple simultaneous requests for the downloading of advertisements or other messages, the system maintaining a list of all such advertisements or other messages and their network addresses, the system periodically reviewing the list seeking an advertisement or other message that the network reports can be downloaded, and the system initiating the downloading of the advertisements or other messages sequentially (Ebiswasa, col. 3, lines 54-67 & col. 4, lines 1-14).

Conclusion

14.   Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

15.   The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Martin Wallace can be reached on (571)-272-6159. The fax for this group is (703)-746-7239.

16.   The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"),

(703)-746-7238 (For After Final Communications).

17.   Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:

BOX AF

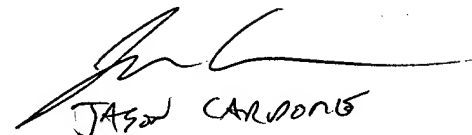Commissioner of Patents and Trademarks Washington, D.C.20231

Or faxed to:

Hand-delivered responses should be brought to 4th Floor Receptionist, Crystal Park II,

2021 Crystal Drive, Arlington, VA 22202.

Adnan Mirza

Examiner